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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,722	07/15/2003	Thomas Allan Barber	PT0060 US NA	7135

23906 7590 01/11/2005

E I DU PONT DE NEMOURS AND COMPANY
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4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER

COONEY, JOHN M

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,722

Applicant(s)

BARBER ET AL.

Examiner

John m Cooney

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,14,15 and 26-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-13 and 16-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0104.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

Claims 7,8,14,15, and 26-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10-26-04.

Applicant's election with traverse of Group I (claims 1-6, 9-13, and 16-25) in the reply filed on 10-26-04 is acknowledged. The traversal is on the ground(s) that the inventions are not distinct or properly restricted. This is not found persuasive because the claims are maintained to be distinct for the reasons set forth in the original restriction requirement and applicants' recitation of the MPEP does not refute the holding of restriction for the claims. Any rejoinder of appropriate process of use claims will be determined at time of allowance.

The requirement is still deemed proper and is therefore made FINAL.

This application contains claims 7,8,14,15, and 26-29 are drawn to an invention nonelected with traverse in Paper No. 1004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9-13, and 16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Barda (4,468,480).

Barda discloses preparations of aromatic polyester polyol compositions having acid numbers of below 3 mg/KOH/g, wherein said polyols are prepared from acid components, glycol components, and species inclusive of the non-alkoxylated aminoalcohols (i.e. trialkanolamine) and the functionality enhancing components of the claims (see the entire document). The blowing effect features set forth by applicants' claims are held to be inherent features owing to the similarities of the materials defined.

Claims 1-6, 9-13, and 16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by GB-1,592,534.

GB-1,592,534 discloses preparations of aromatic polyester polyol compositions having acid numbers of below 3 mg/KOH/g, wherein said polyols are prepared from acid components, glycol components, and species inclusive of

the non-alkoxylated aminoalcohols and the functionality enhancing components of the claims (see the entire document). The blowing effect features set forth by applicants' claims are held to be inherent features owing to the similarities of the materials defined.

Claims 1-6, 9-13, and 16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller et al. (2,788,332).

Muller et al. discloses preparations of aromatic polyester polyol compositions having acid numbers of below 3 mg/KOH/g, wherein said polyols are prepared from acid components, glycol components, and species inclusive of the non-alkoxylated aminoalcohols (i.e. trialkanolamine) and additional materials and accelerators reading on the materials of applicants' claims (see the entire document). The blowing effect features set forth by applicants' claims are held to be inherent features owing to the similarities of the materials defined.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOHN M. COONEY, JR.
PRIMARY EXAMINER
Group 1700